FREEDOM OF ASSOCIATIONS AND LEGAL CONDITIONS FOR NON-PROFIT ORGANIZATIONS IN BELARUS

Review Period: 2015

Legal Transformation Center

Assembly of Pro-Democratic NGOs

Major changes of 2015 affecting the interests of non-profit organizations (NGOs) concerned legal regulations of foreign funding. At the same time, all pre-existing legal restrictions and enforcement practices regarding all aspects of the NGOs establishment and operation remained unchanged.

Presidential Decree No. 5 dated August 31, 2015 *On Foreign Donations*, with effect from March 4, 2016, in general, left the previous procedure of foreign donations receipt unchanged (requiring mandatory pre-registration of foreign donations and providing for criminal liability for violation of this procedure).

The legal regulation and another kind of foreign funding – international technical assistance – changed in 2015. To this extent the procedure also remained unchanged. However, certain bureaucratic barriers have been removed. EU Center for International Technical Assistance was opened in Belarus. The Coordinating Council with the participation of representatives of state bodies, international technical assistance donors, and non-governmental sector was established.

Changes in tax laws upheld the selective approach where the Tax Code specifies the names of the organizations, for which donations are excluded for Belarusian donors from their taxable base (the list of such organizations in the Code has been extended slightly).

The procedure of state registration of public associations, political parties, their organizational structures, as well as funds remains complex and burdensome, providing state registration bodies the opportunity for arbitrary refusal to register any organization created due to minor grounds. Bodies of justice refused to register a significant number of public associations, which submitted documents for registration in 2015.

The ban on NGO's activity without state registration remains. The breach of the ban is subject to criminal liability under Article 193^1 of the Criminal Code, which provides for the punishment of up to two years' imprisonment. Despite the absence of new criminal cases under this Article, the very existence of the prohibition and the threat of punishment significantly limit the freedom of association and opportunities for NGO activities.

On the threshold of the presidential elections of 2015 and during the election campaign the facts searches and other pressure on the representatives of human rights NGOs were recorded.

Changes of Legislation Affecting NGOs

Presidential Decree No. 5 *On Foreign Donations* was signed on August 31, 2015. The Decree approved the Regulations on the procedure for obtaining, recording, registration, and use of foreign gratuitous aid, control of its receipt and intended use, as well as the registration of humanitarian programs. This legal act is of great importance for Belarusian NGOs receiving donations from abroad[1]. It replaced Decree № 24 of 2003 and, with some minor positive changes, in general did not change the rigid and restrictive system for registration and use of foreign gratuitous aid, which hurts the chances for the development and financial sustainability of civil society organizations.

The system for registration of foreign donations stipulated by the Decree does not meet the international obligations of the Republic of Belarus and international standards for freedom of association, such as the OSCE Guidelines on Freedom of Association, according to which the unimpeded obtaining of resources, including foreign and international ones, is an integral part of freedom of associations.

The Decree still contains the requirement for pre-registration of foreign aid at the Department of Department for Humanitarian Activities under the Property Management Directorate of the President of the Republic of Belarus, which allows the state to arbitrarily refuse permission for the use of foreign aid. The system of a limited list of purposes that are permitted to obtain foreign donations according to the standard procedure has also been preserved. Some new objectives have appeared in the regulation, such as: to promote the development of arts, cultural activities, environmental protection, enforcement of sentences, crime prevention and the promotion of a law-abiding lifestyle, strengthening the material-technical base of government agencies, repair (reconstruction) of social facilities. At the same time, as before, the list of objectives contains no educational activities, human rights, promotion of healthy lifestyles, gender equality, protection of animals, and other aspects of NGOs' activities. Foreign donations for the purposes not specified in the list can be obtained only by a decision of the Property Management Directorate of the President of the Republic of Belarus (when obtaining the aid in the amount exceeding 500 basic units, such decision shall be taken only by the Directorate upon agreement with the President).

Foreign donors also include Belarusian citizens permanently residing abroad. The new Decree excludes the norm of its application to foreign nationals who, under international treaties valid for the Republic of Belarus, given the similar rights with the citizens of the Republic of Belarus in the field of civil relations. Thus, the aid granted by the citizens and legal entities of the Russian Federation in accordance with the new legislation is referred to foreign donations (previously such approach was selectively applied in practice). The recipients of foreign donations also include foreign citizens and stateless persons permanently residing in Belarus.

Positive changes introduced by the new Decree should include an exclusion of anonymous donations received in Belarus from the concept of foreign donations i. e. a new definition of foreign aid includes only anonymous donations received from abroad. Thus, the Decree eliminated bad legislation that has not worked in practice but transformed the activity of charitable and other organizations on the use of funds collected in the donation boxes into punishable activities. At the same time, the regulations on how the regulatory authorities will determine whether an anonymous donor is a foreign one remains unclear.

[1] Review of changes in the legislation on foreign donations http://www.lawtrend.org/freedom-of-association/analiz-izmenenij-zakonodatelstva-ob-inostrannoj-bezvozmezdnoj-pomoshhi

The exclusion of the real estate located abroad as well as property rights (for example, in respect of intellectual property) from the category of foreign donations was also an innovation.

Previous legislation has not set a minimum amount of foreign donation that a legal person can receive without registration. The new Decree contains a provision that foreign donations obtained in the form of goods (property) in the amount not exceeding 500 basic units as at the date of its receipt to be used in production and business operations of a legal entity is not subject to registration. Thus, the new Decree, in spite of the offers of civil society organizations, sets the minimum amount of foreign donations not subject to registration only in respect of goods (property), rather than cash. In addition, Belarusian legislation does not contain a definition of “production and business activities”. Based on the oral explanations of the Department for Humanitarian Activities, this rule will apply only to industrial enterprises.

In addition to the above core rules, the new Decree contains a number of changes important for NGOs attracting foreign donations for their activities.

With respect to individuals, the new Decree abolished the need for registration of foreign donations received, except in cases of applying for exemption of such donations from the individual income tax.

In general, the Decree toughen the reporting requirements, increases state control over the use of donations received, complicates the process of release of such donation from taxes, as well as creates a preference for humanitarian projects and programs approved by the state compared with the NGOs’ activities carried out by them independently. It contains the requirements for numerous approvals and bureaucratic procedures that make it difficult for NGO to obtain foreign donations, while making it easier to obtain foreign donations for humanitarian programs of state bodies.

Administrative and criminal liability for violation of the procedure for the use of humanitarian donations, criticized by civil society, also remains in force. Even a single violation of the procedure for receiving foreign donation can serve as the grounds for the liquidation of public associations. According to Article 369^2 of the Criminal Code, obtaining, storage, and/or transfer of foreign donations for the implementation of activities prohibited by the legislation of the Republic of Belarus or for the funding of political parties, alliances of political parties, preparation or conduct of elections, referenda, recall of a deputy or members of the Council of Republic, organization or holding of mass events, strikes, manufacture or distribution of propaganda materials, holding of seminars or other forms of political and mass agitation work among the population, committed within one year after the imposition of an administrative penalty for the same violation, are punishable by a fine, arrest, or restraint for up to three years, or imprisonment for up to two years.

A number of regulations dealing with the implementation of projects (programs) of the international technical assistance came into force on October 23. The main of them was the Resolution of the Council of Ministers dated July 13, 2015 No. 590 *On Amendments and Changes to Certain Resolutions of the Council of Ministers of the Republic of Belarus*. The Resolution Decree introduced the one-stop-shop principle for all projects of international technical assistance through the Ministry of Economy, which is competent to approve and register ITA projects on the basis of a fixed list of the documents submitted by the recipients of such assistance. The Resolution reduced the number of documents for the registration of projects and the timing of their consideration. According to the officials, the time for submitting

and registration of the project at the Ministry of Economy should now significantly reduce[2] (previous registration period for international technical assistance could make a year or more).

The new regulation clarifies the issue of procurement of goods (works, services) within the framework of international technical assistance projects. It was stated that the sources of co-financing may include, inter alia, not only the own funds of the international technical assistance recipient but also its labour and other resources. The Resolution abolished the need to provide semi-annual reports on the project implementation, as well as increased the term of final reports submission: now the reports on the implementation of the project are to be submitted only before January 15 of the year following the reporting year and the final report for the entire duration of the project – not later than 40 days after its deadline.

A new tool for coordination and cooperation of donors and recipients of technical assistance – Coordination Council with the participation of representatives of state bodies, international technical assistance donors, and non-governmental sector – has been established at the Commission for International Technical Cooperation at the Council of Ministers. Currently, no meetings of the Board have taken place and its membership has not been published. The EU International Technical Assistance Center in Minsk has also been established. The objectives of the Centre include the notification of state bodies, local executive and administrative bodies, as well as organizations and public associations of the country of the EU programs of international technical assistance and the conditions for their implementation in Belarus; participation in the development and implementation of EU programs of international technical assistance in the Republic of Belarus; summarizing and analysis of proposals of state bodies, local executive and administrative bodies, organizations and public associations of the Republic of Belarus regarding the improvement of the efficiency of international technical cooperation with the European Union; drafting and submission to the Ministry of Foreign Affairs of the proposals on the priority directions of attracting the EU international technical assistance and improving the effectiveness of international technical cooperation with the European Union[3].

Despite a number of technical improvements, the principle of approval the registration of foreign donations and international technical assistance non-complying with the international obligations of the Republic of Belarus remained essentially unchanged. The problem of distinction between "foreign donations" and "international technical assistance" also survived. The new procedure for obtaining and registering the aid from abroad rather facilitates the attraction of funds to state agencies than simplifies such a task for NGOs[4].

The Law of the Republic of Belarus dated December 30, 2015 *On Amendments and Changes to Certain Laws of the Republic of Belarus on Business and Taxation*[5] change the norms of the Tax Code relating to the tax benefits for Belarusian donors donating to NGOs. The list of NGOs, the transferred legal entities' profit to which (in the amount of no more than 10 percent of gross profits) or the profit used to pay the bills for the goods (works, services) purchased and transferred to the specified organizations or property rights shall be exempt from the income

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[2] One-stop-shop assistance/Belarusians and Market - 40 (1173) 24 – October 30, 2015. http://www.belmarket.by/ru/345/16/27073

[3] Regulations on the EU International Technical Assistance Center in the Republic of Belarus http://cu4eu.by/coordination_unit/position

[4] Legislation developments regarding the implementation of international technical assistance projects: Lawtrend review and comments http://www.lawtrend.org/freedom-of-association/novovvedeniya-v-zakonodatelstvo-o-realizatsii-proektov-mezhdunarodnoj-tehnicheskoj-pomoshhi-obzor-i-kommentarij-lawtrend

[5] http://www.pravo.by/main.aspx?guid=12551&p0=H11500343&p1=1

tax. Such organizations now include public association "Belarusian Society of Disabled People", "Belarusian Society of the Deaf", "Belarusian Association of Sight-Disabled Persons", "Republican Association of Wheelchair Persons", "Belarusian Association of Assistance to Disabled Children and Youth", the Belarusian Children's Fund, Belarusian Children's Hospice, Belarusian Public Association of Veterans, Belarusian Public Association of Persons with Ostomy, International Charitable Foundation for Children "Shans" (Chance), International Public Association "Ponimanie" (Understanding), Belarusian Republican Public Association of the Disabled "Reabilitacia" (Rehabilitation) and unitary enterprises, which property is owned by the above associations. Thus, the practice of naming of the NGOs receiving corporate donations, the transfer of funds to which is subject to benefits, remained in force.

Law of the Republic of Belarus of June 4, 2015, No. 268-Z amended certain legislative acts, including the Law of the Republic of Belarus of October 5, 1994 *On Political Parties*. In particular, the amendments stipulate that political parties, unions and legal entities established by them may not receive funds and other property, either directly or indirectly, including from the organizations with the founders (members, property owners) being foreign countries, foreign organizations, international organizations, foreign citizens, and stateless persons.

Decree No. 4 of June 2, 2015 amended Decree No. 2 of January 26, 1999 *On Certain Measures to Regulate the Activities of Political Parties, Trade Unions, and Other Public Associations*. The amendments exclude the provision of the need to have as members at least 10 % of the total number employees (students) at the enterprise, institution or organization to create a trade union. At the same time the Decree brought certain provisions of the Regulations on State Registration (Re-registration) of Trade Unions and their Alliances (Associations) in compliance with the effective legislation.

In accordance with the Resolution of the Council of Ministers of March 26, 2015 No. 231, the base rent has increased since April 1 to 120,000 rubles, resulting in 20 % increase of the rent for organizations renting offices in the state- or municipality-owned premises.

Resolution of the Council of Ministers of December 18, 2015 No. 1059 On Fixing the Basic Unit Amount, since January 1, 2016, the basic unit has been fixed in the amount of 210,000 rubles. Thus, the fee for the registration of non-profit organizations, for the statements of claim and complaints to court, fines, etc., increased by 17%.

Elements of Social Dialogue

On March 2, Department for Humanitarian Activities under the Property Management Directorate of the President of the Republic of Belarus announced the development of a regulation of the Head of State aimed at improving the procedures for obtaining and using foreign donations, their exemption from taxes and customs duties, stipulated by Presidential Decree of November 28, 2003 No. 24 *On Receipt and Use of Foreign Donations*. At the initiative of the Assembly of Pro-Democratic NGOs of Belarus and Legal Transformation Center, the collective proposals on improvement of legislation in this area have been developed. They were further signed by 29 non-profit organizations and sent to the aforesaid Department. At the same time, the Department received suggestions and comments from other Belarusian organizations and international expert centers, i.e. the International Centre for Non-

Commercial Law (ICNL) and the European Centre for Non-Commercial Law (ECNL)[6]. While drafting collective proposals, we became aware of the prepared draft decree regulating the procedure for obtaining and using foreign donations. Decree No. 5 approved in the end has not taken into account the main recommendations of NGOs and does not meet their interest (see the previous Section).

In January, the Ministry of Foreign Affairs of the Republic of Belarus prepared a national report within the second cycle of the Universal Periodic Review of Human Rights on the implementation of recommendations adopted at the end of the first cycle of the UPR[7]. Several NGOs were provided the draft report for preview and had the opportunity to submit their comments. However, the final version of the national report does not take into account the recommendations made, and the consultations of NGOs with the Government in the course of report preparation were of formal and ineffective character[8]. In contrast to the first cycle of the UPR in 2010, in drafting of the national report in the second cycle of the UPR, the experts representing only registered human rights organizations were admitted for negotiations and consultations, while the representatives of the non-registered organizations did not have such an opportunity. Belarusian NGOs produced a series of alternative reports to the UPR, including a general report of a broad coalition of human rights organizations[9], as well as the special report on the legal status of civil society organizations and respect of freedom of association[10].

Within the framework of UPR procedure, Belarus submitted a report to the UN Human Rights Council on May 4 and announced the implementation of the recommendations received in the first round of the UPR in 2010.

The interactive dialogue of the Belarusian delegation with other countries devoted great attention to the issues of freedom of association and assembly, the status of NGOs and other civil society organizations, religious organizations, political parties,and trade unions. Among others, the recommendation on the decriminalization for the activities of unregistered organizations (Article 193^1 of the Criminal Code) were made by the United States, Switzerland, the Czech Republic, Denmark, Lithuania, and Poland. Canada, Estonia, Germany, India, Ireland, Italy, Japan, Croatia, Luxembourg, the Netherlands and others also proposed to improve the legal environment for non-profit organizations. For instance, Ghana recommended the Government of Belarus to simplify the procedure of registration of political parties and other associations and foundations. Denmark recommended to repeal Article 193^1 of the Criminal Code, which criminalizes the activity of unregistered organizations, and in general to put an end to the system of constraints, intimidation and harassment of civil society organizations, including trade unions, as well as environmental, LGBT and human rights organizations. Canada proposed to remove restrictions from civil society, including the ban on receiving foreign financial support by NGOs, restrictions on the voluntary out-of-hours work and obstacles in state registration of NGOs in accordance with the rights to freedom of association and expression. Ireland recommended Belarus to create, in law and in practice, the free

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[6] http://www.lawtrend.org/freedom-of-association/nekommercheskie-organizatsii-napravili-svoi-predlozheniya-k-zakonodatelstvu-ob-inostrannoj-pomoshhi
[7] http://mfa.gov.by/upload/UPR_Belarus_National_Report.pdf
[8] http://www.lawtrend.org/freedom-of-association/olga-smolyanko-v-natsdoklade-mid-net-obektivnoj-otsenki-situatsii-so-svobodoj-assotsiatsij-v-belarusi
[9] http://www.lawtrend.org/wp-content/uploads/2014/09/UPR_Belarus_Alternative-report_en.pdf
[10] https://docs.google.com/file/d/0Bwh6rJZ1JOWsWEhHWG80NVFvazQ/edit

atmosphere where civil society organizations could operate freely, be secure, and participate fully in the democratic processes.

A number of countries urged the Belarusian authorities to immediately release political prisoners (Luxembourg, Lithuania, the Czech Republic, Denmark, Norway, Poland, Canada, Australia) and to discontinue the practice of persecution and pressure on independent journalists and human rights defenders.

Immediately after the question and answer session the Human Rights Council held a side event where the representatives of "Vesna" (Spring) Human Rights Centre, Legal Transformation Center and the Assembly of Pro-Democratic NGOs of Belarus assessed the responses provide by the official Minsk. Belarusian NGOs stressed the importance of preserving the institution of the UN Special Rapporteur on Human Rights and expressed a wish for the recommendations for Belarus made in the second round of the UPR to be as specific as possible, which would demand from the Belarusian government real steps in the form of the change in law and law enforcement practice. Proposals on the content of recommendations, which may be made in the second round of the UPR, were announced.

The first Belarusian Not-For-Profit Law Forum organized by the Assembly of Pro-Democratic NGOs of Belarus, Legal Transformation Center, European Centre for Not-For-Profit Law (Hungary) and the Institute for Not-For-Profit Law (Lithuania) was held in Vilnius on May 23-24. Forum participants, including the heads of the largest non-governmental organizations in Belarus, as well as experts from Lithuania, Ukraine, Russia, Poland, Hungary and Slovakia, discussed the most urgent challenges in the field of legal regulation of freedom of association in Belarus. The participants also declared the preparation and promotion of the not-for-profit law reforms chart aimed at improving the status of the freedom of association in the country.

The Resolution of the Council of Ministers of February 18, 2015 No. 110 approved Activity Program of the Government of the Republic of Belarus for 2015. The objectives of the government and the implementation mechanisms included: promotion of Public Advisory Councils, strengthening the role of such structures in determining the problematic issues of entrepreneurship, in the development of appropriate solutions, preparation of draft regulations; optimization of provided state support, formation of government programs aimed at achieving the priorities of social and economic development; development of recommendations for the formation of the state social order; development of youth and children's organizations, partnership of such associations with the state, their active involvement in the development and implementation of state youth policy.

On February 10, 2015 the Government approved the National Strategy for Social and Economic Development of Belarus until 2030. NGOs and other interested public got the opportunity to provide comments and suggestions to the previously published draft of this document. The approved Strategy pays special attention to the institutions of civil society, in particular, it addresses the need to create a favorable legal framework for the development of civil society organizations, to improve the mechanisms of the system interaction between the state and non-governmental organizations, to create a full-fledged infrastructure and mechanisms to support volunteer activities and civic initiatives. However, despite the fact that the *National Strategy for Sustainable Social and Economic Development before 2020* contains similar provisions, the current legislative practice does not show the implementation of such provisions in practice, which brings into question their reality and the possibility of their implementation.

NGOs Registration Statistics

According to the Ministry of Justice, 106 new public associations were registered in Belarus in 2015, which in general corresponds to the average annual number of newly registered associations (including 1 international, 13 national, and 92 local public associations). Also, the bodies of justice registered 1 new union of public associations and 11 new foundations in 2015.

Totally, as of January 1, 2016, 15 political parties, 37 trade unions (33 republican trade union, 2,665 public associations (including 225 international, 716 national and 1,724 local), 34 unions (associations) of public associations, and 7 republican state and public associations have been registered in Belarus. 1,127 party organizations, 23,131 trade unions and 41,011 organizational structures of public associations have been registered.

In comparison with 2014, the total number of registered public associations increased by 2,7% (from 2,596 as of January 1, 2015 to 2,665 as of January 1, 2016).

164 foundations (15 international, 5 national and 144 local) have been registered in Belarus.

It should be noted that the increase in the number of foundations has been provided during recent years almost exclusively by registering namely local foundations: registration of international and national foundations is recorded 1-2 times per year and the total number thereof has remained almost unchanged.

Increase of Public Associations in Belarus

	October 30, 2003	**January 1, 2004**	**January 1, 2005**	**January 1, 2006**	**March 1, 2007**	**January 1, 2008**	**January 1, 2009**	**January 1, 2010**	**January 1, 2011**	**January 1, 2012**	**January 1, 2013**	**January 1, 2014**	**January 1, 2015**	**January 1, 2016**
Number of newly registered public associations (for the previous year)	**94**	**155**	**61**	**85**	**100**	**94**	**-**	**94**	**134**	**118**	**111**	**70**	**86**	**106**
Totally registered public associations in the country as of the date specified	**2248**	**2214**	**2259**	**2247**	**2248**	**2255**	**2221**	**2225**	**2325**	**2402**	**2477**	**2521**	**2596**	**2665**

Increase of Foundation in Belarus

	January 1, 2008	*January 1, 2009*	*January 1, 2010*	*January 1, 2011*	*January 1, 2012*	*January 1, 2013*	*January 1, 2014*	*January 1, 2015*	*January 1, 2016*
Number of newly registered foundations (for the previous year)	**9**	**9**	**8**	**14**	**21**	**22**	**11**	**11**	**11**
Totally registered foundations in the country as of the date specified	**64**	**75**	**84**	**99**	**119**	**139**	**145**	**155**	**164**

The information on registered legal entities was removed from the website of the Ministry of Justice in spring 2015 in the process of reorganization of the website. The website of the Ministry of Justice still contains the section on registered public associations and their unions. However, it is not regularly updated and the information on some of the registered organizations cannot be found. Deleting of such information eliminates the possibility of a complete qualitative and quantitative analysis of registered NGOs.

Practice in Restrictions on Registration of Non-Profit Organizations

The practice of unjustified refusals to register, including on the basis of minor deficiencies in the execution of the documents and claims for the presentation of a legal address as well as claims to the goals and objectives of NGOs, preserves.

In particular, in January 2015, the registration of Public Association "Family Crisis Center "Shag" (Step) was refused on the basis of claims to the documents evidencing the legal address.

The Supreme Court of Belarus considered on June 10-11 the complaint of the initiators of the human rights public association "Za Svobodnye Vybory" (For Fair Elections) to the refusal to register the organization. The Ministry of Justice has here times refused to register this association, which was created to promote fair election in Belarus and supervision over election campaigns: the first refusal was in 2011 and the second – in 2013.

The founders of the organization believe that the unwillingness of the Ministry of Justice to register the organization is politically motivated. The founders reject the formal reasons for the third refusal of registration as minor and easily correctable technical errors: a word "republican" was added in one place in the documents to the name of the association, indicating the territorial status of the organization. Also, not all the founders could accurately fully name the organization during the inspection of the Ministry of Justice although all of them confirmed their participation in its creation.

The United Nations Human Rights Committee prepared its Communication of October 10, 2014 No. 2153/2012 in connection with the second refusal to register the association “Za Svobodnye Vybory” in 2013. According to the Communication, the Republic of Belarus violated the rights of citizens to association when it had not registered the organization in 2011, at their first attempt to get the status of a legal entity. However, the Supreme Court has once again (on June11, 2015) recognized the decision of the Ministry of Justice to refuse the registration of the association lawful and justified.

The above case of refusal to register the association “Za Svobodnye Vybory” illustrates numerous problems related to the freedom of creating associations in Belarus, i.e. organizations repeatedly and for a long time apply for registration, and refusal to register are based on minor and easily correctable technical violations or on the examination of the founders not stipulated by the law. Nevertheless, the courts do not cancel the decisions of registration authorities to refuse registration and the decisions of the UN Human Rights Committee related to the violations of freedom of association are not performed.

The Ministry of Justice refused to register the youth public association “Sovremenny Vzglyad” (Modern Viewpoint) during the monitoring. The decision to refuse was also made based on technical flaws: the list of founders does not include home phone numbers of two of them, and there is a mistake in the name of the street where one of the founders lives (80 let Oktyabrya street instead of 70 let Oktyabrya street). The Supreme Court dismissed the appeal against the refusal to register the association: the Supreme Court found the judgment of the Ministry of Justice legal.

On December 15, 2015, the Ministry of Justice for the fourth time refused to register the republican research and educational public association “Govori Pravdu” (Tell the Truth). The grounds for refusal was the lack of the head’s signature on the list of the founders and on the list of the association’s management and auditing body.

On December 31, Main Administrating of Justice of the Grodno Region Executive Committee refused to register the social and educational public association “Movement of Mothers 328”. In November 2015, Main Administrating of Justice of Minsk City Executive Committee refused to register the cultural and educational public association “Novaya Alternativa” (New Alternative). In these two cases, the judicial authorities introduced a dangerous practice that could potentially become a serious threat to the creation of new voluntary associations of any kind: the basis for refusal in registration was the indication in the Charter of the two organizations the subject of their activities and tasks falling beyond the activity specified in the Charter. Main Administrating of Justice of the Grodno Region Executive Committee indicated the presence of charitable activities among the objectives of the SEPA “Movement of Mothers 328” in addition to the social and education activity specified in the name of the association as a basis for refusal of registration. Main Administrating of Justice of Minsk City Executive Committee pointed out the fact that the name of CEPA “Novaya Alternativa” does not meet one of the objectives of the created public associations (“promotion of civil society creation and the law-ground state on the basis of a free market, priority of human rights, universal values, and pluralism in all areas of the development of society”) and one of its objectives (“to promote the creation of conditions for the participation of citizens in the scientific, humanitarian, educational activities, environmental protection events and animal life protection, as well as in other public activities”) as the grounds for refusal in registration. Minsk City Court decision acknowledged the refusal to register CEPA “Novaya Alternativa” justified.

The organizing committee for the creation of a new political party "Belarusian Christian Democracy" reported difficulties in finding the premises for another founding congress of the organization in May - June. Nevertheless, the congress was held on June 13 and the party is now preparing the documents for registration for the fifth time. The Ministry of Justice once again decided to refuse the registration of the party on August 14. In December 2015, the initiators of the BCD submitted the documents for registration for the sixth time. No new political parties have been registered in Belarus since 2000, even though various groups have tried to establish them for over 15 times.

Common unjustified refusals to register new NGOs contribute to the trend of registration of NGOs in the form of institutions, i. e. non-profit organizations established by a single owner. Due to the relatively simple registration procedure (similar to the registration of commercial organizations), this form of NGOs is becoming increasingly popular for newly created organizations. However, a number of activities (for example, representing its members in court, protection of their rights and legitimate interests in the state bodies, nomination of representatives to any election committees or observers at elections) are not within the scope of activities of NGOs established in the form of institution.

Prosecution of Unregistered Organizations

The threat of criminal liability for the activities of an unregistered organization remains one of the most significant restrictions of freedom in Belarus. According to Article 193[1] of the Criminal Code, the organization of activities or participation in the activities of a political party, another public association, religious organization or foundation, for which there is a valid decision of the authorized state body on their liquidation or suspension of activities, as well as the organization of activities or participation in the activities of a political party, another public association, religious organization or foundation that have not passed the established state registration procedure is punished by a fine, or arrest, or imprisonment for up to two years.

The police made searches in the houses of the pastor of "Preobrazhenie" (Transfiguration) Church, Mr. Sergey Nikolaenko, and the deacon of the same Church, Mr. Alexandr Chuev, in Gomel in early July. They confiscated a seal and a number of documents. According to the above named persons, they are being examined under Article 193[1] of the Criminal Code for the activities as members of an unregistered organization.

The order on the inspection of property signed by the Prosecutor of Gomel, Mr. Zaytsev, stated that Messrs. Sergey Nikolaenko and Alexander Chueva "illegally keep religious literature or literature containing the information that infringe the rights, freedoms and legitimate interests of citizens or can impede the citizens' performance of their state, public, and family duties, as well as the constituent documents of the above-mentioned unregistered organization, registers of its members, schedule of events, reports of events and meetings, financial reports, seals, etc." On June 19, the judge of Gomel Central District, Mr. Victor Kazachok, fined the pastor of "Preobrazhenie" (Transfiguration) Church, Mr. Sergey Nikolaenko, for 3.6 million rubles for holding a church service in a rented premise. The court found the service held by the officially registered religious community to be an unauthorized mass event as it was not approved by the District Administration. "Preobrazhenie" (Transfiguration) Church has been duly registered in Gomel since 2004. It was re-registered in 2012. The community signed a lease agreement for the premises for church services in March 2015.

Gomel City Prosecutor's Office Gomel issued in July an official prosecutor's warning to Mr. Sergey Nikolaenko on the impermissibility of the activity of an unregistered religious organization - the Church of Christ the Savior[11].

Limitations and Obstacles to Activities of Civil Society Organizations

In January, Ms. Elena Tonkacheva, the Chair of the Board of the Legal Transformation Center, tried to judicially challenge the decision of the Internal Affairs Department of Piershamaiski District of Minsk of November 5, 2014 on her expulsion from Belarus and the ban to entry into the country for three years. The trial lasted three days. As a result, on January 13, Ms. Natalia Petukh, the Judge of Pershamaiski District Court dismissed the human rights activists' complaint. The grounds for the human rights activist's expulsion were the facts of minor speeding of the car owned by Ms. Tonkacheva recorded by video cameras. However, the Court has not established the fact of the activist's driving[12]. On February 19, Minsk City Court dismissed the appeal of Elena Tonkacheva against the decision of Pershamaiski District Court. It was the final court to appeal the decisions of the Citizenship and Migration Body of the Ministry of Internal Affairs on the expulsion of the human rights activist from the country. Ms. Elena Tonkacheva left the territory of Belarus on February 21.

In March 2015, the computers of Mr. Igor Borisov, the Editor-in-Chief of e-media "NASH Mahiliou" (OUR Mahiliou) were seized within the inspection under the application on bringing to responsibility of the author of one of the articles published by the medium. Three computers were seized in the office of local human rights defenders who visited Borisov. All computers have been examined thus allowing finding the content of the documents on their hard drive. The list of words specified for the search of documents suggests that the true purpose of seizure of computers was to obtain information about the activities of "Viasna" (Spring) human rights center.

In March, Mogilev Regional Court considered the claim of the Main Administration of Justice of the Mogilev Region Executive Committee to one of the few registered in the country of the regional human rights organizations - the public association "Mogilev Human Rights Center", which was founded in 1998. The basis for a claim for liquidation was the problems of the public association with the legal address. According to the organizations, businessmen from whom they rent, are constantly faced with pressure from the security services, and therefore in violation of earlier agreements deny the organization in rent. It should be noted that in 2014 the registration authority filed a lawsuit to suspend the activities of the Mogilev Human Rights Center because of problems with the legal address. At this time, as in 2014, human rights defenders at the last minute managed to find a suitable room and even during the trial in the judicial authorities to apply for registration of a new legal address. In this regard, the statement of claim on liquidation has been withdrawn.

In December 2015, Mogilev Regional Court considered the appeal of the Mogilev charitable public association "Otklik" (Response) to the decision to refuse the registration of changes to the association's Charter in connection with the change of legal address. The Administration of Justice of the Mogilev Region Executive Committee refused to register the changes to the Charter due to the fact that, according to the Administration of Justice, two public associations

[11] Гомельская пракуратура папярэдзіла пастара Нікалаенку http://gomelspring.org/be/news/4078

[12] http://www.lawtrend.org/expulsion/spravochnaya-informatsiya-o-vysylke-eleny-tonkachevoj-iz-respubliki-belarus-ot-17-11-2014

cannot be located at the same legal address. Mogilev Regional Court granted the appeal of the public association in connection with manifestly ill-founded claims of the registration authority.

On the threshold of the presidential elections to be held on October 11, the pressure on human rights organizations has increased.

The Chairman of Gomel Branch of the regional public association "Pravovaya Iniciativa" (Legal Initiative), Mr. Leanid Sudalenka, was summoned for questioning as a witness in a criminal case by Gomel Regional Office of the Investigation Committee on May 3. The Investigative Committee opened a criminal case under Art.343 (Part 2) of the Criminal Code (Distribution of Pornography via the Internet) for the alleged distribution of pornographic movies from the electronic mailbox belonging to the human rights activist, from the IP address registered at the social and political center located at: 52 Polesskaya Str, in Gomel. The premises of the social and political center in Gomel, where the offices of several public associations are located, were searched on April 8. Four systems units were seized. The apartment of the human rights activist, Mr. Leanid Sudalenka, was also searched; computer system unit and a laptop were also seized. Both public center and Leanid Sudalenka's apartment were searched with the seizure of computer equipment within the framework of the case. Mr. Leanid Sudalenka had a three-hour stay at the Lithuanian-Belarusian border, "Kamenny Log" border entry point, on May 24. The human rights activist was returning by car from Vilnius, where he took part in the Not-For-Profit Law Forum. Both the human rights activist and his car were fully examined. His laptop was withdrawn for examination. Human rights organizations in Belarus associate all cases of pressure on Mr. Leanid Sudalenka with his active work in the sphere of human rights.